

**REMARKS**

The Applicant thanks the Examiner for the careful consideration of this application. Claims 1-21 are currently pending. Claims 1, 12-14, and 21, and the Abstract, have been amended. Claims 22 and 23 have been cancelled, without prejudice. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

**Objections to the Specification**

The Office Action objected to the Abstract for containing legal phraseology such as “means.” The Abstract has been amended to remove any legal phraseology, and to correct an inadvertent typographical error. Accordingly, the Applicant respectfully requests that this objection be withdrawn.

**Rejections under 35 U.S.C. § 112**

(1) The Office Action rejected claims 12-20 under 35 U.S.C. § 112, second paragraph, for lacking antecedent basis for “the gripping means” as recited in claim 12. Claim 12 has been amended to replace “the gripping means,” with “the gripping surface,” which is recited in claim 1, from which claim 12 depends. Accordingly, the Applicant respectfully requests that this rejection be withdrawn.

(2) The Office action rejected claims 13 and 14 under 35 U.S.C. § 112, second paragraph

for containing the term “preferably.” Claims 13 and 14 have been amended to remove the term “preferably.” Accordingly, the Applicant respectfully requests that this rejection be withdrawn.

Rejections under 35 U.S.C. § 102

(1) The Office Action rejected claims 1, 5, 6, and 8-12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,723,800 to Sanders (“Sanders”). Claim 1 is the independent claim. The Applicant respectfully traverses this rejection for the following reasons.

Sanders does not disclose that “the handle means slope downward with respect to the article to be lifted when in the second, closed configuration,” as recited by amended claim 1. Support for this amendment can be found in the specification as originally filed, for example, at page 4, lines 25 to 28, page 13, lines 10 to 13, and in Figure 3. Sanders does not disclose the claimed configuration.

The Office Action aligns the handles 68, 70 of Sanders with the claimed “handle means,” and apparently aligns the bi-stem 12 of Sanders with the “article to be lifted.” However, the handles 68, 70 do not “slope downward with respect to” the bi-stem 12 “when in the second, closed configuration,” as recited by amended claim 1. Instead, the handles 68, 70 extend *perpendicularly* to the bi-stem 12 when Sanders’s bi-stem gripping apparatus is clamped around the bi-stem, as shown in FIG. 4 of Sanders. Therefore, Sanders does not disclose that “the handle means slope downward with respect to the article to be lifted when in the second, closed configuration,” as recited by amended claim 1.

The lifting device of claim 1 provides an unexpected advantage over the apparatus of

Sanders. Specifically, when an article is lifted using the apparatus disclosed by Sanders, the user's upward pressure on handles 68, 70 tend to pull the handles 68, 70 inward toward the article, thus making the apparatus difficult to use, and causing the articles to slip out of the apparatus. With the lifting device of claim 1, however, the user's upward pressure on the "the handle means [that] slope downward with respect to the article to be lifted" causes the handle means to move upward rather than inward, and results in a lifting device that is more efficient, effective, and comfortable to use. Therefore, the novel lifting device of claim 1 provides an unexpected advantage over the apparatus of Sanders.

Claims 5, 6, and 8-12 depend from claim 1, and are patentable over Sanders for at least the same reasons.

(2) The Office Action rejected claims 1-12 and 14-21 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,840,556 to Catlett ("Catlett"). Claims 1 and 21 are the independent claims. The Applicant respectfully traverses this rejection for the following reasons.

Catlett does not disclose that "the handle means slope downward with respect to the article to be lifted when in the second, closed configuration," as recited by amended claims 1 and 21. Support for this amendment can be found in the specification as originally filed, for example, at page 4, lines 25 to 28, page 13, lines 10 to 13, and in Figure 3. Catlett does not disclose the claimed configuration.

The Office Action apparently aligns the handles 18, 28 of Catlett with the claimed "handle means" and apparently aligns the cylinder 24 with the "article to be lifted." However, the handles 18, 28 do not "slope downward with respect to" the cylinder 24 "when in the second,

closed configuration,” as recited by amended claims 1 and 21. Instead, the handles 18, 28 extend *perpendicularly* or *upwardly* with respect to the cylinder 24 when Catlett’s device 10 is clamped around the cylinder 24, as shown in FIG. 3 of Catlett. Therefore, Catlett does not disclose that “the handle means slope downward with respect to the article to be lifted when in the second, closed configuration,” as recited by amended claims 1 and 21. In addition, the novel lifting devices of claims 1 and 21 provide an unexpected advantage over the apparatus of Catlett, for substantially the same reasons as discussed above with respect to Sanders.

Claims 2-12 and 14-20 depend variously from claim 1, and are patentable for at least the same reasons.

#### Rejections under 35 U.S.C. § 103

The Office Action rejected claims 13 and 22 under 35 U.S.C. § 103(a) as being obvious over Catlett in view of U.S. Patent No. 5,601,324 to Purcell (“Purcell”). Claim 22 has been canceled, with out prejudice.

Claim 13 depends indirectly from claim 1, which, as shown above, is patentable over Catlett. Purcell does not remedy the deficiencies of Catlett. That is, Purcell’s handle member 14 slopes *upward* with respect to the container 12 when the clamp 10 is in the closed position, as shown in FIG. 4 of Purcell. Therefore, neither Catlett nor Purcell discloses that “the handle means slope downward with respect to the article to be lifted when in the second, closed configuration,” as recited by amended claim 1. Accordingly, claim 1, and its dependent claim 13, are both patentable over any reasonable combination of Catlett and Purcell.

Applicant: Lionel Foster et al.  
Appl. No.: 10/577,852

**Conclusion**

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

Date: 3/12/2008



Michael A. Sartori, Ph.D.

Registration No. 41,289

Steven J. Schwarz

Registration No. 47,070

VENABLE LLP

P.O. Box 34385

Washington, DC 20043-9998

Telephone: (202) 344-4000

Direct Dial: (202) 344-4295

Telefax: (202) 344-8300